



1997 SENATE BILL 209

May 15, 1997 - Introduced by Senator ADELMAN. Referred to Committee on Judiciary, Campaign Finance Reform and Consumer Affairs.

1 **AN ACT to create** 19.32 (1b) and 19.356 of the statutes; **relating to:** notice to
2 individuals prior to release of public records containing personally identifiable
3 information pertaining to the individuals and a right of action to restrain the
4 release of such information.

Analysis by the Legislative Reference Bureau

Under current law, any requester has a right to inspect or copy any public record unless otherwise provided under statutory or common law or unless the custodian demonstrates that the public interest in withholding access to the record outweighs the strong public interest in providing that access. See s. 19.35 (1), stats., and *State ex rel. Youmans v. Owens*, 28 Wis.2d 672, 682-83 (1965) and *Hathaway v. Green Bay School District*, 116 Wis. 2d 388, 395-96 (1984). If a custodian fails to provide prompt access to a requested record or to make this demonstration, a requester may obtain a court order requiring a custodian to provide access to a record. See s. 19.37 (1), stats.

In *Woznicki v. Erickson*, 202 Wis.2d 178, 192-193 (1996), the Wisconsin supreme court held that a district attorney must notify any individual who is the subject of a record which the district attorney proposes to release to a requester prior to release, and that the individual may appeal a decision to release a record to circuit court, which must determine whether permitting access would result in harm to the public interest which outweighs the public interest in allowing access. There is no statutory basis for this decision. The decision also departs from the supreme court's previous decisions, which held that unless otherwise provided, custodians have no

